

## REMARKS

### Objections and §112 Rejections

The Examiner has objected to the specification for not providing proper antecedent basis for the claimed subject matter and to the drawings for not showing every feature in the claims. The Examiner has also rejected claims 26-29, 31-35 and 37-40 under 35 U.S.C. 112 first paragraph. All of these are based upon the claim limitations relating to ribs in one section being taller than other ribs. Applicant thanks the Examiner for the telephone interview on October 6, 2003 during which these issues were discussed. Applicant pointed out that these features are shown in at least Figures 10a and 15, for example. It is believed that these objections and rejections have been fully addressed.

### Obviousness-type Double Patenting Rejections

The Examiner has provisionally rejected claims 1-5, 15, 16, 18, 21, 22, 25 and 30 under the judicially created doctrine of obviousness-type double patenting over claim 19-23 and 25-27 of copending application no. 09/944,480. The claims in the present application are not obvious in light of the claims of the copending application. Assuming that the claims in the copending application issue first, a one-way test of obviousness is applicable here, i.e. whether the claims in the present application are obvious in light of the claims in the copending application. The claims in the copending application do not specify that the cross-rib members extend from the upper surface of the bottom deck to the lower surface of the runners, as specified in claims 1-5, 15, 16, 18, 21, 22, 25 and 30. Nor is there any suggestion in the art to do so. Therefore, the double-patenting rejection of these claims should be withdrawn.

The claims in the copending application do not specify reinforcement members as claimed in claims 6-14, 17, 19, 20, 23, 24 and 36. It would not be obvious to add reinforcement members to the pallets claimed in the copending application. As is argued in more detail below, there is no motivation in Breezer for adding reinforcement members to pallets that already have ribs. Therefore, the double-patenting rejection should be withdrawn.

#### Anticipation Rejections Over Konig

The Examiner has rejected claims 1-3, 5, 15, 16, 18, 21 and 25 as anticipated by Konig (DE 3205910). Applicant is submitting with this Amendment a Supplemental IDS which includes a translation of Konig. Konig discloses ribs in the pallet deck and discloses ribs 12 mated to ribs 14 in the feet 13, but does not include cross ribs in the feet. Claims 1, 15, 21 and 25 require "cross-ribs" in the columns (or "upright members" or "post members"), which are not shown in Konig. Therefore, all of these claims are patentable over the Konig reference. As was discussed in the telephone interview, Konig does not disclose ribs in the feet that cross each other, intersect one another, are substantially perpendicular to one another or extend transversely to one another. Applicant has amended these claims to recite these features of the ribs in the columns. Therefore, all of these claims are patentable.

#### Obviousness Rejections Over Konig

The Examiner has rejected claims 4, 11, 18, 22 and 30 as obvious over Konig, stating that these features are "well known and conventional practices." This is incorrect, particularly in the claimed invention. The Examiner has not cited anything in the prior art that discloses these features or any motivation for using these features in the context claimed. Therefore, these claims are not obvious.

Obviousness Rejections Over Konig and Breezer

The Examiner has rejected claims 6-14, 17, 19, 20, 23, 24 and 26 as obvious over Konig in view of Breezer (5,413,052). First, there is no motivation in Konig or Breezer for adding reinforcement members to the Konig deck because the Konig deck already includes ribs, instead of reinforcing bars, for providing strength and rigidity. Second, the ribs in the Konig deck are arranged in a grid, which would actually *prevent* the insertion of reinforcement members into the channels in the deck defined by the ribs 4, 5. In order to insert reinforcement members into the channels of the Konig deck, it would be necessary to remove many of the ribs extending perpendicularly to the channel, thus leaving the deck with no reinforcement (ribs or reinforcement members) in the perpendicular dimension. It is only Applicant's invention that takes full advantage of the use of both cross-ribs and reinforcement bars between the top deck member and the bottom deck member. As shown in Figures 14 and 15, Applicant's invention provides a reinforcement bar that works together with the cross-ribs to strengthen and reinforce the pallet deck. Thus, these claims are not obvious over Konig and Breezer.

The Examiner has rejected claim 17 as obvious over Konig in view of Breezer. Breezer includes a sleeve 462 for receiving a fastener 408 to secure the top deck 402 to the post 406 and bottom deck 404. Breezer does not suggest using the sleeve to locate the top deck relative to the post other than for the purpose of securing them with a fastener. Since Konig does not utilize a fastener that requires the alignment of holes (as does Breezer) there is no suggestion from Breezer to include a sleeve for locating the top deck in Konig. Konig does not use fasteners to secure the top deck to the post, so there is no motivation to use the sleeve of Breezer in the Konig pallet. Therefore, claim 17 is patentable.

Claim 36 depends from claim 17 and further specifies that the end of the recess is closed. This would prevent the use of a fastener as disclosed in Breezer. Therefore, claim 36 is independently patentable.

Closing

Reconsideration of the application as amended is requested. Please charge the amount of \$950 for a 3-month extension, as well as any other required fees, to Deposit Account No. 50-1984.

Respectfully submitted,



---

Konstantine J. Diamond  
Registration No. 39,657  
4010 E. 26<sup>th</sup> Street  
Los Angeles, California 90023  
Telephone: (323) 262-5145; Facsimile: (323) 269-8506

Dated: January 2, 2004